S.B. CIVIL WRIT PETITION NO.6537/2003.

(MUKESH DEVERA VS. DGM(PERSONNEL) SBBJ & ANR.)

DATE OF ORDER : 03.05.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr. R.S. Saluja for the petitioner.
Mr. P.K. Lohra for the respondents.

The petitioner being ward of late Shri Rameshwar Lal Devera who died while in service of respondent- Bank claimed for appointment on compassionate grounds, but the same was denied under a communication dated 25.08.2003 by the Managing Director of the respondent-Bank and while doing so reasons were prescribed in following terms:

> "It is pertinent to mention that your mother has already received an aggregate amount of Rs.6,78,308/- as retiral benefits after adjusting the various loans taken by your deceased father from the Bank. Further, a family pension of Rs.5,117/- per month is also being paid to your mother. Thus, in my view, the amount of monthly pension and the income which can be fetched from the above retiral benefits, are sufficient to meet out the necessities of your family and to mitigate the hardship caused due to the sudden demise of your father.

In so far as the question of outside borrowings of Rs.6.25 lacs are concerned you have submitted letters of declaration given by five persons pertaining to the borrowings of Rs.4.00 lacs alleged to be taken for the purpose of constructions of house. Bank does not take cognizance of such borrowings from private parties / money lenders.

So far as hospitalization expenses of your deceased father are concerned the same can be claimed by you for reimbursement as per bank rules.

It is well established proposition that the whole object of granting compassionate appointment is to enable the dependents of the deceased to tide over the sudden crisis due to the death of the sole bread winner. Keeping in view the aforesaid facts and circumstances, the Bank's policy in vogue contained in Circular No.PER/115/96-97 dated 11.3.97 based on the guidelines issued by the Govt. Of India, various pronouncements of the Hon'ble Supreme Court, the family profile, the capacity of the major male members of the family to earn independently and other extenuating circumstances, I regret that, having considered all the aforesaid aspects, your request for appointment on compassionate grounds is not found acceptable.”

Being aggrieved by the same, this petition for writ is preferred.

The main contention of the petitioner is that the respondents while considering cases for grant of appointment on compassionate grounds adopted different yardsticks for different persons and that resulted in discrimination amongst similarly situated persons. A specific averment in this regard as mentioned in the petition reads as follows:

> "That in regard to contents of Para 10 of the reply suffice it to say that it is not only in Bank of Indore that appointment on compassionate ground has been offered to persons placed similarly to petitioner rather in State Bank of Bikaner and Jaipur itself such appointments have been given. Suffice it to say in this regard that Shri R.S. Meena a Scale II Officer, who expired on 22.7.2002 his wife Smt. Magan Devi has been appointed on 17th February, 2003 at Bapu Nagar, Jaipur Branch. Likewise Shri Ganpat Lal an officer in JM Ist Grade who was serving at Kalu Anantpur expired in June 2002 and his wife Smt. Meena has come to be appointed in PWD Complex Branch, Hasanpura, Jaipur in April, 2003 on compassionate basis. In the like circumstances Shri G.R. Mandotia and S.L.

> Kadam Scale II Officer, who expired while in service, nottheir dependents have been appointed in their place as Clerks. Therefore, the incorrect facts stated in the reply are denied."

In view of the averment above, this Court by the order dated 29.03.2007 directed the respondents bank to keep available record of the proceedings as a consequent to that appointments were given to the persons named in the para quoted above. Accordingly, learned counsel for the respondents has placed on record a photo copy of complete set of proceedings taken place while considering the cases for the grant of appointments to the wards of late Shri R.S. Meena, late Shri Ganpat Lal, late Shri S.L. Kadam and late Shri Gopal Ram Mundotia.

From perusal of record, it reveals that a competent committee of the respondent-bank while considering the question with regard to appointment of Smt. Magan Devi widow of late Shri Ram Swaroop Meena on basis of available facts made a recommendation for her appointment in subordinate staff as follows:

> "The family has not got surplus from the retiral benefits (Rs.6,98,083/-) as the entire amount was exhausted in repaying Bank Loans for Rs.13,47,742/- leaving Rs.6,49,659/- as out standing loan amount due for repayment. Further the deceased has left huge responsibilities behind the family to look after the five minor children i.e. their livelihood, education, social customs, marriage etc. which the widow has to face in years to come. The widow is getting pension of Rs.4,914/- per month, which amount is not sufficient to meet out the family expenditure looking to the size of the family. Apart from that the widow has to repay the unpaid portion of Bank's dues amounting to Rs.6,49,659/-. There is no source of income other than family pension of the widow. Therefore, Smt. Magan Devi widow of the deceased employee who is 31 years old be offered appointment as sub-staff in the Bank on compassionate grounds."

Similarly, while considering the case for appointment on compassionate grounds to Smt. Meena Devi widow of late Shri Ganpat Lal Meena, the competent authority made recommendations in following terms:

> "We have not considered outside liabilities of Rs.3,00,000/- shown by the

> widow in absence of sufficient proof acceptable to the Bank. The widow is getting Rs.4,636/- per month family pension from the Bank. The family has not got surplus from the retiral benefits (Rs.3,97,050/-) as the entire amount was exhausted in repaying Bank Loans of Rs.10,30,000/- leaving Rs.6,32,950/- as outstanding loan amount due for repayment. At present total income of the family comes to only Rs.4,638/- per month. This income is less than 50% of the Gross Salary as well as the net salary of the deceased prior to his death. The family has no other source of income for their livelihood. Shri Ganpat Lal was only 38 years old when he died in a tragic accident. Smt. Meena Devi is 30 years and has a long and difficult life ahead with three minor children and huge liabilities of Rs.6.32 lacs. The case therefore merits sympathetic consideration."

While making recommendation for appointment on compassionate grounds to Smt. Sushila Mundotia widow of late Shri Gopal Ram Mundotia, the competent authority of the respondent-bank made a remark in following terms:

> "Shri Gopal Ram Mundotia an officer MMGS-II was posted at our Vashi, Navi Mumbai branch, who died in a tragic accident on 23.02.2003. We have examined the case

and found that widow is not getting family pension from Bank since the employee had not opted for the same. The family has not got surplus since entire retiral benefits of Rs.9,75,512/- was exhausted to repay the outstanding of Bank's loans of Rs.9,92,287/- leaving the outstanding loan amount of Rs.16,775/- ue for repayment. Apart from the widow Smt. Sushila, Shri Mundotia is survived by two grown up daughters who are unmarried and still studying and one son who is a minor (only 10 years old). The widow will have to manage their education, marriage and social customs etc. Which are heavy responsibilities upon the widow. The family do not have any source of income for their livelihood. Keeping in view the spirit of the scheme and the pathetic condition of the family, the case merits sympathetic consideration.

Smt. Sushila Mundotia widow of the deceased employee is 40 years and Higher Secondary passed with second division. She may be offered appointment in clerical cadre."

In the case of late Shri S.L. Kadam appointment was accorded to his son Shri Gaurav Chaudhary and for that the recommendation by the competent committee was made in following terms:

"We have examined the case and find that Shri S.L. Kadam who was posted at our S.M.S. Highway, Jaipur branch died on 3.04.2003. The family has got not surplus of Rs.4,92,314/- after repaying of Bank's loan of Rs.867,926/-. We have not considered outside liabilities of Rs.3,00,000/- in absence of sufficient proof acceptable to Bank. However, the difference of medical bills of Rs.16,313/- claimed by the family has been taken into account. If we allow 15 percent for contingencies out of net surplus, we get net investible funds of Rs.4,18,467/- while will yield monthly income as interest of Rs.2,353/- if safely invested in Bank. The widow is not getting family pension from the Bank as the same was not opted by the deceased employee. There is no other source of regular income of the family other than interest income from the retiral benefits, this may also exhaust incoming years on account of inflation. This interest income is much less than 50 percent of the gross salary of Rs.19,534/- as well as net salary of Rs.9,954/- of the deceased prior to his death and will not be sufficient to meet the requirement of the family.

The widow, Smt. Sushila Kadam, who is 43 years old is not keeping well and she has expressed her unwillingness to apply for job for herself. She has requested the Bank that

her son, Shri Gaurav Chaudhary, who is a graduate in computer science and still unemployed may be appointed in the Bank's service on compassionate grounds."

From reading of the recommendations made by the competent committee of the bank, it is apparent that in the cases referred above, except in the case of Shri S.L. Kadam, appointments were accorded to the widows of deceased employees of the bank. The competent committee of the bank in every case quite meticulously considered all economic and social circumstances of the family concern prevailing at the relevant time.

In the case of Smt. Magan Devi widow of late Shri R.S. Meena, it was found that at the time of death, age of Shri R.S. Meena was only 33 years and his wife at the time of consideration for appointment was of 31 years and she was to support her three minor children. She was having no income except the family pension that was determined in a tune of Rs.4,914/- per month.

In the case of Smt. Meena Devi widow of Shri Ganpat Lal, the committee after considering all relevant facts, reached at the conclusion that the family of the deceased bank employee

was having no source for their livelihood, except the family pension that was of Rs.4,636/-. At the time of consideration for appointment, the age of the widow was 30 years and she was also required to support her three minor children with huge liability of Rs.3.12 lacs against housing loan.

In the case of appointment to Smt. Sushila Mundotia widow of Shri Gopal Ram Mundotia, it was found by the competent committee that no family pension was to be given as the same was not opted by the deceased bank employee. The family of the deceased employee also not received any surplus amount as the entire retiral benefits that was in a tune of Rs.9,75,512/- exhausted to repay the outstanding bank loan of Rs.9,92,287/-.

Similarly, in the case of appointment to Shri Gaurav Chaudhary son of late Shri S.L. Kadam, it was found that the widow was not getting family pension from the bank as that was not opted by the deceased employee. A specific finding was given that whatever amount the family of the deceased employee will earn against interest that will not be sufficient to meet the requirements of the family.

On the other hand, it was found by the committee while considering the case of the petitioner for appointment on compassionate grounds that by getting family pension and interest on the amount received by the family of the deceased as retiral benefits shall be of Rs.10,522/- per month. Beside that, the age of the petitioner at the relevant time was of 24 years. No liability for repayment of loan was left behind by late Shri Rameshwar Lal. By considering all these facts, the bank authorities reached at a specific conclusion that the condition of the family of late Shri Rameshwar Lal Devera was not such penurious that may demand for appointment on compassionate grounds.

From comparative study of the circumstances of all the persons named above, I am also satisfied that no discrimination is made by the bank while considering the cases for grant of appointment on compassionate grounds. The Bank considered every case on its own merits.

Accordingly, this petition for writ is having no substance and, therefore, the same is dismissed.

(GOVIND MATHUR)J.

Anil/